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IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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JAMES HOSTETTER.,

Plaintiff,

v.

STATE OF UTAH, et al.,

Defendants.

MOTION FOR SUMMARY JUDGMENT

Case No. 2:07CV00197

Judge Ted Stewart

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Defendants, Blake Nielsen, Daniel Sparks, James Bible, Paul Rasmussen, Dave Wolfe, and Elizabeth Smith, by and through Assistant Utah Attorney General John Paul Soltis, respectfully move the Court for Summary Judgment on all of Plaintiff's claims.

This Motion is based on the following:

1. It was not within the defendants responsibility to prescribe or deliver Hostetter's pain medication, and therefore not an Eighth Amendment violation,
2. Inmate James Hostetter fails to prove that the defendants violated his Eighth Amendment rights in denying him access to the gym during the time Hostetter requested,

3. The points and authorities in Defendants' Memorandum in Support of Summary Judgment.

DATED this 15<sup>th</sup> day of January, 2010.

MARK L. SHURTLEFF  
Utah Attorney General

/s/ John Paul Soltis  
JOHN PAUL SOLTIS  
Assistant Utah Attorney General  
Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I certify that on January 15, 2010, the foregoing, **MOTION FOR SUMMARY JUDGMENT**, was electronically filed using the court's CM/ECF system, and I mailed a true and correct copy by U.S. mail, postage prepaid, to the following non CM/EDF participants:

James Hostetter #18993  
Utah State Prison  
PO BOX 250  
Draper, Utah 84020

/s/